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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,860	05/28/2002	Stig Willner	CU-2691 RJS	6710

26530 7590 04/19/2004

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EXAMINER

KOKABI, AZADEH

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,860

Applicant(s)

WILLNER ET AL.

Examiner

Azy Kokabi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Willner et al (U.S. Patent No. 4,821,739).

Willner discloses a spinal brace (#1) having an abdominal pad (#26), a posterior frame (#2), and lateral iliac rolls (#28 and see at least column 4, lines 4-26 and see figure 2). The abdominal pad and the posterior frame are interconnected by connection means (#27-#29). The connection means comprises iliac rolls (#28) and straps (#27, #29) which are connected to the abdominal pad. The posterior frame (#2) of Willner has an adjustable lumbar pad (#16) provided with pressure setting means (#22) for setting the distance between the lumbar pad and the posterior frame, thereby enabling an adjustment of applied pressure (see column 3, lines 59-68 through column 4, lines 1-3).

In reference to claims 2-4, the lumbar pad is adjustable in height (see grooves #24, which enable movement of the lumbar pad #16 and screw #22). The pressure setting means is a screw jack (#22). The screw jack comprises a vertically placed adjusting crew. It is vertically placed compared to the horizontal back beam (#5).

In reference to claim 5, the screw is adjustable in the lateral side direction (see figure 2). The posterior frame of Willner includes two vertical struts (see two sides of #2), a cranial

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horizontal support (#4 or #3), and a caudal horizontal support (#3 or #4). Both cranial and caudal horizontal supports are adjustable in height (see grooves and screws (#10, 11, and # 8, 9).

As best understood by the examine, the straps are provided between the iliac rolls and abdominal pad. Furthermore, the straps are provided between the horizontal supports and abdominal pad (see figures 1-3).

In reference to claims 11-13, Willner discloses that the abdominal pad flexible plastic, which is inherently lightweight. Figure 3 shows that the abdominal pad is slightly concave. The pad is shaped to cover the abdomen.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willner ('739).

As previously, discussed in paragraph 2 above, Willner further discloses all the limitations as set forth, however Willner fails to specify the shape of the cranial border to the anterior abdominal pad.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided for an abdominal pad that is shaped after the lower ribs, since it has been held that a change in the shape of the element involves only routine skill in the art (see MPEP 2144.04). It would have been obvious to have provided for a abdominal pad shaped after the lower ribs in order to comfortably fit the abdominal pad to a user's anatomy.

Response to Arguments

5. Applicant's arguments filed 04/12/04 have been fully considered but they are not persuasive. Applicant argues that Willner fails to disclose the use of iliac rolls as claimed. However, Willner does disclose rolls (see at least #28), which are located at a region of the abdomen on top of the pelvis bone. Therefore, the straps of Willner are iliac rolls, as defined by the claims, because they are positioned at the top of the pelvis bone (near the abdomen area).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azy Kokabi whose telephone number is (703) 306-4154. The examiner can normally be reached on Monday- Friday, 6:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AK



Henry Bennett
Supervisory Patent Examiner
703-308-0101

